

SCHWEGMAN ■ LUNDBERG ■ WOESSNER ■ KLUTH

## United States Patent Application

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: **ETHYLENE-CARBOXYL COPOLYMERS AS DRUG DELIVERY MATRICES.**

The specification of which was filed on December 22, 2000 as application serial no. 09/748,719.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 C.F.R. § 1.56 (attached hereto). I also acknowledge my duty to disclose all information known to be material to patentability which became available between a filing date of a prior application and the national or PCT international filing date in the event this is a Continuation-In-Part application in accordance with 37 C.F.R. §1.63(e).

I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

**No such claim for priority is being made at this time.**

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

**No such claim for priority is being made at this time.**

I hereby claim the benefit under 35 U.S.C. § 120 or 365(c) of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

**No such claim for priority is being made at this time.**

Divisional Application  
Docket No. 50623.352  
Copy from USSN 09/748,719

Attorney Docket No.: 1225.007US1  
Serial No. 09/748,719  
Filing Date: December 22, 2000

Page 2 of 3

I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Anglin, J. Michael	Reg. No. 24,916	Huebsch, Joseph C.	Reg. No. 42,673	Oh, Allen J.	Reg. No. 42,047
Beekman, Marvin L.	Reg. No. 38,377	Jurkovich, Patti J.	Reg. No. 44,813	Padys, Danny J.	Reg. No. 35,635
Bianchi, Timothy E.	Reg. No. 39,610	Kalis, Janal M.	Reg. No. 37,650	Parker, J. Kevin	Reg. No. 33,024
Billion, Richard E.	Reg. No. 32,836	Kaufmann, John D.	Reg. No. 24,017	Perdok, Monique M.	Reg. No. 42,989
Black, David W.	Reg. No. 42,331	Klima-Silberg, Catherine I.	Reg. No. 40,052	Peterson, David C.	Reg. No. P-47,857
Brennan, Leoniede M.	Reg. No. 35,832	Kluth, Daniel J.	Reg. No. 32,146	Prout, William F.	Reg. No. 33,995
Brennan, Thomas F.	Reg. No. 35,075	Lacy, Rodney L.	Reg. No. 41,136	Schumm, Sherry W.	Reg. No. 39,422
Brooks, Edward J., III	Reg. No. 40,925	Lemaire, Charles A.	Reg. No. 36,198	Schwegman, Micheal L.	Reg. No. 25,816
Chu, Dinh C.P.	Reg. No. 41,676	LeMoine, Dana B.	Reg. No. 40,062	Scott, John C.	Reg. No. 38,613
Clark, Barbara J.	Reg. No. 38,107	Lundberg, Steven W.	Reg. No. 30,568	Smith, Michael G.	Reg. No. 45,368
Clise, Timothy B.	Reg. No. 40,957	Maeyaert, Paul L.	Reg. No. 40,076	Speier, Gary J.	Reg. No. 45,458
Dahl, John M.	Reg. No. 44,639	Maki, Peter C.	Reg. No. 42,832	Steffey, Charles E.	Reg. No. 25,179
Drake, Eduardo E.	Reg. No. 40,594	Malen, Peter L.	Reg. No. 44,894	Stordal, Leif T.	Reg. No. 46,251
Embretson, Janet E.	Reg. No. 39,665	Mates, Robert E.	Reg. No. 35,271	Terry, Kathleen R.	Reg. No. 31,884
Fordenbacher, Paul J.	Reg. No. 42,546	McCrackin, Ann M.	Reg. No. 42,858	Tong, Viet V.	Reg. No. 45,416
Forrest, Bradley A.	Reg. No. 30,837	Moore, Charles L., Jr.	Reg. No. 33,742	Viksnins, Ann S.	Reg. No. 37,748
Gamon, Owen J.	Reg. No. 36,143	Nama, Kash	Reg. No. 44,255	Vogel, Peter J.	Reg. No. 41,363
Harris, Robert J.	Reg. No. 37,346	Nelson, Albin J.	Reg. No. 28,650	Woessner, Warren D.	Reg. No. 30,440
Hill, Stanley K.	Reg. No. 37,548	Nielsen, Walter W.	Reg. No. 25,539		

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg, Woessner & Kluth, P.A. to the contrary.

Please direct all correspondence in this case to Schwegman, Lundberg, Woessner & Kluth, P.A. at the address indicated below:

P.O. Box 2938, Minneapolis, MN 55402

Telephone No. (612)373-6900

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of sole inventor: Gene Michal  
Citizenship: United States of America  
Post Office Address: 56 Lower Terrace  
San Francisco, CA 94114

Residence: San Francisco, CA

Signature: 

Gene Michal

Date: 2-05-01

Full Name of inventor:  
Citizenship:  
Post Office Address:

Residence:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Gene Michal  
Assignee: Advanced Cardiovascular Systems, Inc.  
Title: Ethylene-Carboxyl Copolymers As Drug Delivery Matrices  
Serial No.: 09/748,719 Filed: December 22, 2000  
Examiner: Unassigned Group Art Unit: 3738  
Docket No.: 50623.170

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COMMISSIONER FOR PATENTS  
Washington, D.C. 20231

**POWER OF ATTORNEY BY ASSIGNEE OF ENTIRE INTEREST**

Sir:

The above-identified assignee hereby revokes all powers of attorney previously given and appoints hereby the following attorney(s) and/or agent(s) to prosecute the above-identified application and to transact all business in the United States Patent and Trademark Office in connection therewith:

David B. Abel, Reg. No. 32,394; Daryl Josephson, 37,365; Nate Lane, Reg. No. 43,738; Marc A. Sockol, Reg. No. 40,823; Cameron Kerrigan, Reg. No. 44,826; Victoria Nicholson Reg. No. 47,823; Paul Meyer, Reg. No. 47,791; David Levine Reg. No. 48,821; Victor Repkin Reg. No. 45,039; Aaron Wininger, Reg. No. 45,229; Paul Durdik, Reg. No. 37,819; William Bachand, Reg. No. 34,980; David Rogers, Reg. No. 38,287; David Koo, Reg. No. 46,839; Michael Lechter, Reg. No. 27,350; Les Weinstein, Reg. No. 19,625; Lori Howland, Reg. No. 42,671; Tim Kitchen, Reg. No. 41,900; Thomas A. Hassing, R g. No. 36,159; Philip Yip, Reg. No. 37,265.

Please address all correspondence and telephone calls regarding this application to:

Cameron Kerrigan  
SQUIRE, SANDERS & DEMPSEY L.L.P.  
One Maritime Plaza, Suite 300  
San Francisco, California 94111-3492  
Telephone: 415.954.0323

**ASSIGNEE CERTIFICATION UNDER 37 CFR 3.73(b)**

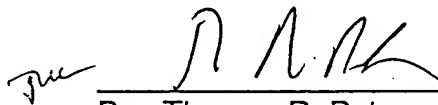
The undersigned representative of the above-identified assignee certifies that the above-identified assignee is the assignee of the entire right, title and interest in the above-identified patent application by virtue of a chain of title from the inventor of the above-identified patent application to the above-identified assignee as shown below:

1. From: Gene Michal To: Advanced Cardiovascular Systems, Inc. A copy of the Notice of Recordation, Assignment and Recordation Cover Sheet is enclosed herewith.

**The undersigned (whose title is supplied below) is empowered to sign this certificate on behalf of the above-identified assignee.**

November 16, 2001

Date



By: Thomas R. Peterson  
Vice President and General Counsel

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Gene Michal  
Assignee: Advanced Cardiovascular Systems, Inc.  
Title: Ethylene-Carboxyl Copolymers As Drug Delivery Matrices  
Serial No.: 09/748,719 Filed: December 22, 2000  
Examiner: Unassigned Group Art Unit: 3738  
Docket No.: 50623.170

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COMMISSIONER FOR PATENTS  
Washington, D.C. 20231

**NOTICE OF CHANGE OF ADDRESS**

Examiner:

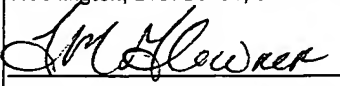
Please direct all correspondence in the above-identified application and with respect to any patent that issues on this application to the undersigned at this address:

Cameron Kerrigan  
SQUIRE, SANDERS & DEMPSEY L.L.P.  
One Maritime Plaza, Suite 300  
San Francisco, California 94111-3492  
Telephone: 415.954.0323

Respectfully submitted,



Cameron K. Kerrigan  
Reg. No. 44,826

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: COMMISSIONER FOR PATENTS, Washington, D.C. 20231, on December 3, 2001.	
	12/3/01
Signature of Person Mailing Paper	Date of Signature

1225.007. US1  
Divisional Application  
Docket No. 50623.352  
Copy from USSN 09/748,719



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

JUNE 27, 2001

PTAS  
SCHWEGMAN, LUNDBERG, WOESSNER ET AL  
JANAL M. KALIS  
P.O. BOX 2938  
MINNEAPOLIS, MN 55402



\*101682742A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 04/06/2001

REEL/FRAME: 011694/0183  
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
MICHAL, GENE

DOC DATE: 02/05/2001

ASSIGNEE:  
ADVANCED CARDIOVASCULAR SYSTEMS,  
INC.  
3200 LAKESIDE DRIVE  
SANTA CLARA, CALIFORNIA 95054-2807

SERIAL NUMBER: 09748719  
PATENT NUMBER:

FILING DATE: 12/22/2000  
ISSUE DATE:

TARA WASHINGTON, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

Schwegman, Lundberg,  
Woessner & Kluhn, P.A.  
JUL 02 2001  
RECEIVED

04-23-2001

Atty Ref/Docket No.: 1225.007US1

Docket No. 50623.352

Copy from USSN 09/748,719



101682742

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Gene Michal

Additional name(s) of conveying party(ies) attached? [ ] Yes [X] No

3. Nature of conveyance:

[X] Assignment

[ ] Merger

[ ] Security Agreement

[ ] Change of Name

[ ] Other

Execution Date: February 5, 2001

2. Name and address of receiving party(ies):

Name: Advanced Cardiovascular Systems, Inc.

Street Address: 3200 Lakeside Drive

City: Santa Clara State: CA ZIP: 95054-2807

Additional name(s) & address(es) attached? [ ] Yes [X] No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

B. Patent No.(s)

Serial No. 09/748,719, filed December 22, 2000

Additional numbers attached? [ ] Yes [X] No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Janal M. Kalis

Address: Schwegman, Lundberg, Woessner & Kluth, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41): \$ 40.00

[X] Enclosed

[ ] Authorized to be charged to deposit account

8. Please charge any additional fees or credit any overpayments to our  
Deposit account number: 19-0743

04/20/2001 GTDN11 00000269 09748719

01 FC:581

40.00 OP

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Janal M. Kalis/Reg. No. 37,650

Name of Person Signing

Signature

Date

Total number of pages including cover sheet: 3

OMB No. 0651-0011 (exp. 4/94)

Do not detach this portion

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks  
Box Assignments  
Washington, D.C. 20231

Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the data needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of information systems, PK2-1000C, Washington, D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project (0651-0011), Washington, D.C. 20503.



### ASSIGNMENT

WHEREAS, I, Gene Michal, residing at 56 Lower Terrace, San Francisco, CA 94114, made certain new and useful inventions and improvements for which I filed an application for Letters Patent of the United States on December 22, 2000, which application is assigned U.S. patent application serial number 09/748,719, and is entitled ETHYLENE-CARBOXYL COPOLYMERS AS DRUG DELIVERY MATRICES.

AND WHEREAS, Advanced Cardiovascular Systems, Inc., a corporation organized and existing under and by virtue of the laws of the State of California, and having an office and place of business at 3200 Lakeside Drive, Santa Clara, CA 95054-2807, (hereinafter "Assignee") is desirous of acquiring the entire right, title and interest in and to said inventions, improvements and application and in and to the Letters Patent to be obtained therefore;

NOW, THEREFORE, to all whom it may concern, be it known that for good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, I have sold, assigned, and transferred, and by these presents do sell, assign and transfer unto said Assignee, its successors or assigns, the entire right, title and interest for all countries in and to all inventions and improvements disclosed in the aforesaid application, and in and to the said application, all divisions, continuations, continuations-in-part, or renewals thereof, all Letters Patent which may be granted therefrom, and all reissues or extensions of such patents, and in and to any and all applications which have been or shall be filed in any foreign countries for Letters Patent on the said inventions and improvements, including an assignment of all rights under the provisions of the International Convention, and all Letters Patent of foreign countries which may be granted therefrom; and I do hereby authorize and request the Commissioner of Patents and Trademarks to issue any and all United States Letters Patent for the aforesaid inventions and improvements to the said Assignee as the assignee of the entire right, title and interest in and to the same, for the use of the said Assignee, its successors and assigns.

AND, for the consideration aforesaid, I do hereby agree that I and my executors and legal representatives will make, execute and deliver any and all other instruments in writing including any and all further application papers, affidavits, assignments and other documents, and will communicate to said Assignee, its successors and representatives all facts known to us relating to said improvements and the history thereof and will testify in all legal proceedings and generally do all things which may be necessary or desirable more effectually to secure to and vest in said Assignee, its successors or assigns the entire right, title and interest in and to the said improvements, inventions, applications, Letters Patent, rights, titles, benefits, privileges and advantages hereby sold, assigned and conveyed, or intended so to be.

AND, furthermore I covenant and agree with said Assignee, its successors and assigns, that no assignment, grant, mortgage, license or other agreement affecting the rights and property herein conveyed has been made to others by me and that full right to convey the same as herein expressed is possessed by me.

IN TESTIMONY WHEREOF, I have hereunto set my hand

this 5<sup>th</sup> day of February, 2001.

Gene Michal  
Gene Michal

STATE OF CALIFORNIA )  
 )ss.  
COUNTY OF SANTA CLARA )

On this 5<sup>th</sup> day of JANUARY, 2001 before me personally appeared Gene Michal to me known and known to me to be the person described in and who executed the foregoing instrument, and he/she duly acknowledged to me that he/she executed the same for the uses and purposes therein set forth.

[SEAL]

Joey Tongson  
Notary Public

